

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSE SALAZAR-MERCADO,)	
)	
Plaintiff,)	
)	
v.)	1:13CV288
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER

This matter is before this court for review of the Recommendation ("Recommendation") filed on August 20, 2013, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 6.) In the Recommendation, the Magistrate Judge recommends that Plaintiff's motion seeking to "quash" the civil action and "return" his Motion for Return of Property to the criminal case (Doc. 5) be denied without prejudice to his filing a proper motion for return of property on the forms and accompanied by the applicable filing fee or an application to proceed in forma pauperis.

The Recommendation was served on the parties to this action on August 20, 2013. Plaintiff filed timely objections (Doc. 8) to the Recommendation. On January 23, 2014, Plaintiff filed untimely objections (Doc. 9) to the Recommendation. See Fed. R.

Civ. P. 72(b)(2) ("Within 14 days after being served with a copy of the recommended disposition, a party may serve and file . . . objections.").

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objection was made, including a review of the untimely objections, and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 6) is **ADOPTED**. **IT IS FURTHER ORDERED** that Plaintiff's "Motion to Quash" (Doc. 5) is **DENIED** without prejudice to his filing a proper motion for return of property

on the forms and accompanied by the applicable filing fee or an application to proceed in forma pauperis.¹

This the 31st day of March, 2014.

William L. Ostun, Jr.

United States District Judge

¹ On April 22, 2013, Plaintiff filed a corrected Motion for Return of Property (1:13CV335), which is proceeding on the court's docket.